



# County of Monterey

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

## Board Report

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**File #:** EGCSO 17-003, **Version:** 1

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Approve and authorize the Chair to sign Amendment No. 1 to Agreement No. A-12423, a Temporary Maintenance Agreement by and between East Garrison Community Services District and UCP East Garrison, LLC relating to temporary maintenance obligations for improvements at the East Garrison development in an amount not to exceed \$80,000 in FY16-17, \$699,300 in FY17-18, \$714,800 in FY18-19, and \$731,400 in FY19-20, and with a term to end within sixty (60) days of the District's approval of an agreement with a selected vendor to provide these maintenance services.

**RECOMMENDATION:**

It is recommended that the Board of Supervisors, acting as the Board of Directors of the East Garrison Community Services District, approve and authorize the Chair to sign Amendment No. 1 to Agreement No. A-12423, a Temporary Maintenance Agreement by and between East Garrison Community Services District and UCP East Garrison, LLC relating to temporary maintenance obligations for improvements at the East Garrison development in an amount not to exceed \$80,000 in FY16-17, \$699,300 in FY17-18, \$714,800 in FY18-19, and \$731,400 in FY19-20, and with a term to end within sixty (60) days of the District's approval of an agreement with a selected vendor to provide these maintenance services..

**SUMMARY:**

On March 26, 2013, the East Garrison Community Services District (District) and UCP East Garrison, LLC (UCP) executed an agreement for UCP to temporarily provide maintenance of improvements owned by the District in Phase 1 of the East Garrison development.

Development pursuant to the East Garrison DDA has proceeded, and the District is preparing to consider acceptance of the newly-completed Lincoln Park. The District is also preparing to solicit a consultant to provide maintenance and related services, including the types of services described in the Temporary Maintenance Agreement undertaken by UCP.

Staff has vetted the anticipated costs of maintenance, and the District has sufficient revenues to assume maintenance duties of its currently-owned facilities as well as the new Lincoln Park. However, it is not known at this time if a consultant will be selected within the time frame contemplated by the original Agreement. Until a vendor can be selected and brought under contract, it is necessary to amend the Temporary Maintenance Agreement to provide for the continued proper, efficient, and cost-effective maintenance of the East Garrison Project, including the new Lincoln Park, in a manner that promotes the continued development of the Project.

**DISCUSSION:**

On July 18, 2006, the Board of Supervisors approved Agreement No. A-10550, *an Urban Services Agreement* between the County and the East Garrison Community Services District. This agreement defined the services to be provided and funded by each of the various entities involved in management of the completed East Garrison development, including the County, the District, and the developer. This agreement was made in part to provide assurance to the County that the East Garrison Project (including the District) would provide and pay for those public services allocated to the District and not have a negative financial impact on the County as required by the Disposition and Development Agreement (i.e. "fiscal neutrality" to the General Fund).

On March 26, 2013, the Board of Supervisors approved a *First Amendment to the Urban Services Agreement* between the County and the District to further define and clarify the allocation of infrastructure maintenance responsibilities to facilitate the continued achievement of the fiscal neutrality requirement.

Also on March 26, 2013, the Board of Supervisors, acting as Board of Directors of the District, approved a *Temporary Maintenance Agreement* with UCP East Garrison, LLC, the East Garrison developer. Development of this agreement acknowledged that due to delays in housing development, the developer was completing and dedicating infrastructure to the District in accordance with the *Urban Services Agreement* faster than the District could accrue special tax revenue to maintain it. As such, the parties agreed that the developer would temporarily maintain these District-owned facilities at its sole cost until the District had the financial resources to fund and perform this maintenance on its own. It was agreed that the developer's costs for such maintenance would not be charged to the District, but would instead be included as "Project Costs" as that term is used in the DDA.

The original terms of the Temporary Maintenance Agreement required the District to reassume its duties no later than the issuance of the Certificate of Occupancy for the three hundred fifteenth (315<sup>th</sup>) market-rate residential unit in Phase 1, or within 120 days of the EGCSO having sufficient revenues from the Special Tax for Services to fund the maintenance obligations (including reserves). As of July 6, 2017, a total of 246 market-rate residential units in Phase 1 have received a Certificate of Occupancy, and an additional 23 are under construction.

The proposed Amendment provides that the District will begin reimbursing UCP for the maintenance work as of March 1, 2017, an agreed upon date that is within the financial capability of the District. It also clarifies that any "Project Costs" representing these maintenance obligations are to be included only with respect to the Successor Agency, and not to FORA. The District is generating sufficient funds to pay the maintenance costs as described in the proposed Amendment, and payment now is an appropriate use of District funds and consistent with the fiscal neutrality concept of the Project, which included the Successor Agency as well as the County.

In the proposed amendment, UCP's maintenance obligations will still end upon the issuance of the 315<sup>th</sup> market-rate residential unit in Phase 1, provided that, with the exception of Lincoln Park, the District can terminate the agreement within sixty (60) days of the District's approval of an agreement with a selected vendor to provide these maintenance services. For Lincoln Park UCP will continue to maintain park for a period of one year following the later of: (a) the issuance of the three hundred fifteenth (315<sup>th</sup>) market-rate residential unit Certificate of Occupancy in Phase 1; or (b) the approval of an agreement between the District and a selected vendor to provide maintenance services, or (c) the District providing notice to UCP of the approval of such an agreement. These revised provisions allow the District better control the extent of UCP's maintenance (and reimbursements therefor).

The original Agreement identifies certain improvements included in the scope of UCP's maintenance responsibilities, but was unclear as to the scope of all improvements to be maintained by UCP pursuant to the Agreement. The proposed Amendment provides clarity to those issues, stating that UCP shall perform all maintenance obligations on District-owned improvements in all Phases of the Project in accordance with the scope and schedule of the applicable Operation and Maintenance Plan, including but not limited to all drainage, stormwater facilities and systems, and retention basins for flood control; Lincoln Park and other Open Space as shown in Exhibit 4 of the *First Amendment to Urban Services Agreement* approved by the Board of Supervisors on March 26, 2013.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel, acting as Counsel for the East Garrison Community Services District, has reviewed and approved the proposed Amendment No. 1 as to form and legality.

By separate action on this date, the Board of Supervisors, acting as the Board of Directors of the Successor Agency to the Redevelopment Agency of the County of Monterey, will consider a recommendation to approve and consent to the subject Amendment No. 1.

FINANCING:

The amendment provides for the reimbursement of temporary maintenance costs incurred on or after March 1, 2017 by the East Garrison Community Service District. Staff has reviewed and vetted the anticipated costs, and has determined that, given the extent of the current facilities to be maintained, as well as assumed future additional facilities to be completed, the amounts are reasonable. There are terms in the proposed Amendment that allow for review and monitoring of such costs by the District.

Funding for the East Garrison Community Services District is budgeted in Fund 181, Appropriations Unit DEO027 and is derived from the special tax imposed upon residential properties within East Garrison. The adopted FY 2017-18 budget does not have sufficient appropriations to fund expenditures related to the Temporary Maintenance Agreement and the proposed Amendment, which crosses fiscal year. The FY 17-18 approved budget includes \$530,000 for the maintenance and \$100,000 for property management administration of the EGCSO. Estimated costs for FY17-18 include the \$80,000 for March 1-June 30, 2017 plus \$699,300 anticipated in the Temporary Maintenance Agreement for work between July 1, 2017-June 30, 2018 (for a total FY17-18 costs of \$779,300), in addition to the anticipated \$100,000 for EGCSO administration. Staff plans to meet with UCP in November to evaluate actual maintenance costs of Lincoln Park and other EGCSO facilities compared to estimated costs, and will return to the Budget Committee and Board of Directors to request additional appropriations following that meeting. There is sufficient fund balance in Fund 181, Appropriations Unit DEO027 to cover any increase in expenditures. There is no impact to the County General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The recommended action complies with the Board of Supervisors' FY 2015-16 Strategic Initiative for Infrastructure, "Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results," by providing maintenance of storm drain infrastructure within the East Garrison development, by protecting water quality through storm water recharge, and by improving the quality of life of County residents through management of parks and open spaces within the East Garrison development.

Check the related BOS Strategic Initiatives:

- ☐ Economic Development
- ☐ Administration
- ☐ Health & Human Services
- ☒ Infrastructure
- ☐ Public Safety

Prepared by: Melanie Beretti, Special Programs Manager, RMA-Land Use & Community Development Division

Approved by: Carl P. Holm, AICP, RMA Director

The following attachments are on file with the Clerk of the Board:

Attachment 1 - Proposed Amendment No. 1 to Agreement No. A-12423, Temporary Maintenance Agreement

Attachment 2 - Agreement No. A-12423, Temporary Maintenance Agreement dated March 26, 2013